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AUG 04 2005

OFFICE OF PETITIONS

In re Application of
Eli M. Noam
Application No. 09/655520
Filed: September 5, 2000

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lack(s) item(s) (1). The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final office action mailed on May 20, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Applicant did not formally file a proper RCE as stated in applicant's amendment of April 5, 2005. Therefore, Applicant filed no amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. (See attached advisory action). Accordingly, the above identified application became abandoned on November 21, 2004 and a notice of abandonment was mailed out on January 4, 2005.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
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By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Gene Kim at (571) 272-6052 or the undersigned at (571)272-3217.

Karen Creasy for
Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action